

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 57857 / May 23, 2008

Admin. Proc. File No. 3-12693

In the Matter of the Application of

SCHON-EX, LLC
c/o John R. Hewitt, Esq.
McCarter & English, LLP
245 Park Avenue
New York, NY 10167

For Review of Disciplinary Action Taken by

NYSE REGULATION, INC.

OPINION OF THE COMMISSION

REGISTERED SECURITIES EXCHANGE -- REVIEW OF DISCIPLINARY
PROCEEDINGS

Violation of Exchange Rules

Submission of Inaccurate Trading Data

Failure to Adhere to Principles of Good Business Practice

Failure to Establish and Maintain Adequate Supervisory Procedures

Member firm of registered securities exchange submitted inaccurate electronic trading data to the exchange and failed to have in place a system to verify the accuracy of its electronic trading data before it was submitted to the exchange. Held, exchange's findings of violations and sanction are sustained.

APPEARANCES:

John R. Hewitt, of McCarter & English, LLP, for Schon-Ex, LLC.

Susan Light, Suzanne Elovic, Howard L. Kneller, and Donald C. Sullivan, for Financial Industry Regulatory Authority, Department of Enforcement, on behalf of NYSE Regulation, Inc.

Appeal filed: July 12, 2007

Last brief received: October 18, 2007

I.

Schon-Ex, LLC ("Schon-Ex" or the "Firm"), a member of the New York Stock Exchange LLC ("NYSE" or the "Exchange") appeals from NYSE disciplinary action. 1/ The Exchange found that Schon-Ex violated NYSE Rules 410A and 401 2/ by providing inaccurate trading data of "short sale" transactions through electronic "blue sheet" submissions in response to NYSE requests for such data. 3/ The Exchange further found that Schon-Ex violated NYSE Rule 342 as

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- 1/ On July 26, 2007, the Commission approved proposed rule changes in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. See Securities Exchange Act Rel. No. 56146 (July 26, 2007), 91 SEC Docket 517. Pursuant to this consolidation, the member firm regulatory and enforcement functions and employees of NYSE Regulation were transferred to NASD, and the expanded NASD changed its name to the Financial Industry Regulatory Authority. See Securities Exchange Act Rel. No. 56148 (July 26, 2007), 91 SEC Docket 522. Because the disciplinary action here was taken before the NYSE-NASD consolidation of regulatory operations, we continue to use the designation "NYSE" in this opinion.
- 2/ NYSE Rule 410A provides, in relevant part, that a "member . . . shall submit [certain specified] . . . trade data elements . . . in such automated format as may be prescribed by the Exchange from time to time, in regard to such transaction or transactions as may be subject of a particular request for information made by the Exchange." In addition, Rule 410A(c) directs that, "[i]n addition to the above trade data elements, a member . . . shall submit such other information in such automated format as may be prescribed by the Exchange, as may from time to time be required." NYSE Rule 401 requires that a member "shall at all times adhere to the principles of good business practice in the conduct of his or its business affairs."
- 3/ Blue sheets (so-called because of the traditional blue paper in which such records were reported and maintained prior to their conversion to an electronic format) are documents in an automated format that are generated by self-regulatory organization ("SRO") members, at the request of the Commission and the SROs, of certain customer and proprietary trading information. See Exchange Act Rel. No. 25859 (June 27, 1988), 41 SEC Docket 398. This information includes, among other data, "customers' names and addresses; trade dates, settlement dates, and whether the transactions were purchases or sales; and the stock symbol, number of shares, and purchase or sale price." United States v. Reifler, 446 F.3d 65, 122 (2d Cir. 2006). See generally Exchange Act Rel. No. 44494 (continued...)

